

104TH CONGRESS
1ST SESSION

H. R. 1812

To amend the Internal Revenue Code of 1986 to revise the income, estate, and gift tax rules applicable to individuals who lose United States citizenship.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 1995

Mr. ARCHER (for himself and Mrs. JOHNSON of Connecticut) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to revise the income, estate, and gift tax rules applicable to individuals who lose United States citizenship.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Expatriation Tax Act
5 of 1995”.

1 **SEC. 2. REVISION OF INCOME, ESTATE, AND GIFT TAXES ON**
2 **INDIVIDUALS WHO LOSE UNITED STATES**
3 **CITIZENSHIP.**

4 (a) IN GENERAL.—Subsection (a) of section 877 of
5 the Internal Revenue Code of 1986 is amended to read
6 as follows:

7 “(a) TREATMENT OF EXPATRIATES.—

8 “(1) IN GENERAL.—Every nonresident alien in-
9 dividual who, within the 10-year period immediately
10 preceding the close of the taxable year, lost United
11 States citizenship, unless such loss did not have for
12 1 of its principal purposes the avoidance of taxes
13 under this subtitle or subtitle B, shall be taxable for
14 such taxable year in the manner provided in sub-
15 section (b) if the tax imposed pursuant to such sub-
16 section exceeds the tax which, without regard to this
17 section, is imposed pursuant to section 871.

18 “(2) CERTAIN INDIVIDUALS TREATED AS HAV-
19 ING TAX AVOIDANCE PURPOSE.—For purposes of
20 paragraph (1), an individual shall be treated as hav-
21 ing a principal purpose to avoid such taxes if—

22 “(A) the average annual net income tax
23 (as defined in section 38(c)(1)) of such individ-
24 ual for the period of 5 taxable years ending be-
25 fore the date of the loss of United States citi-
26 zenship is greater than \$100,000, or

1 “(B) the net worth of the individual as of
2 such date is \$500,000 or more.

3 In the case of the loss of United States citizenship
4 in any calendar year after 1996, such \$100,000 and
5 \$500,000 amounts shall be increased by an amount
6 equal to such dollar amount multiplied by the cost-
7 of-living adjustment determined under section
8 1(f)(3) for such calendar year by substituting ‘1994’
9 for ‘1992’ in subparagraph (B) thereof. Any in-
10 crease under the preceding sentence shall be round-
11 ed to the nearest multiple of \$1,000.”

12 (b) EXCEPTIONS.—

13 (1) IN GENERAL.—Section 877 of such Code is
14 amended by striking subsection (d), by redesignating
15 subsection (c) as subsection (d), and by inserting
16 after subsection (b) the following new subsection:

17 “(c) SECTION NOT TO APPLY TO CERTAIN INDIVID-
18 UALS.—

19 “(1) IN GENERAL.—Subsection (a)(2) shall not
20 apply to an individual if—

21 “(A) such individual is described in a sub-
22 paragraph of paragraph (2) of this subsection,
23 and

24 “(B) within the 1-year period beginning on
25 the date of the loss of United States citizenship,

1 such individual submits a ruling request for the
2 Secretary's determination as to whether such
3 loss has for 1 of its principal purposes the
4 avoidance of taxes under this subtitle or subtitle
5 B.

6 “(2) INDIVIDUALS DESCRIBED.—

7 “(A) DUAL CITIZENSHIP, ETC.—An indi-
8 vidual is described in this subparagraph if—

9 “(i) the individual became at birth a
10 citizen of the United States and a citizen
11 of another country and continues to be a
12 citizen of such other country, or

13 “(ii) the individual becomes (not later
14 than the close of a reasonable period after
15 loss of United States citizenship) a citizen
16 of the country in which—

17 “(I) such individual was born,

18 “(II) if such individual is mar-
19 ried, such individual's spouse was
20 born, or

21 “(III) either of such individual's
22 parents were born.

23 “(B) LONG-TERM FOREIGN RESIDENTS.—

24 An individual is described in this subparagraph
25 if, for each year in the 10-year period ending on

1 the date of loss of United States citizenship, the
2 individual was present in the United States for
3 30 days or less. The rule of section
4 7701(b)(3)(D)(ii) shall apply for purposes of
5 this subparagraph.

6 “(C) RENUNCIATION UPON REACHING AGE
7 OF MAJORITY.—An individual is described in
8 this subparagraph if the individual’s loss of
9 United States citizenship occurs before such in-
10 dividual attains age 18½.

11 “(D) INDIVIDUALS SPECIFIED IN REGULA-
12 TIONS.—An individual is described in this sub-
13 paragraph if the individual is described in a
14 category of individuals prescribed by regulation
15 by the Secretary.”

16 (2) TECHNICAL AMENDMENT.—Paragraph (1)
17 of section 877(b) of such Code is amended by strik-
18 ing “subsection (c)” and inserting “subsection (d)”.

19 (c) TREATMENT OF PROPERTY DISPOSED OF IN
20 NONRECOGNITION TRANSACTIONS; TREATMENT OF DIS-
21 TRIBUTIONS FROM CERTAIN CONTROLLED FOREIGN
22 CORPORATIONS.—Subsection (d) of section 877 of such
23 Code, as redesignated by subsection (b), is amended by
24 striking the last sentence and inserting the following new
25 paragraphs:

1 “(3) PROPERTY EXCHANGED IN NONRECOGNI-
2 TION TRANSACTIONS.—

3 “(A) IN GENERAL.—Gain on any exchange
4 of property to which this paragraph applies, de-
5 termined as if such property had been sold for
6 its fair market value on the date of the ex-
7 change.

8 “(B) TRANSACTIONS TO WHICH PARA-
9 GRAPH APPLIES.—This paragraph shall apply
10 to any exchange during the 10-year period de-
11 scribed in subsection (a) if—

12 “(i) gain is not recognized on such ex-
13 change in whole or in part for purposes of
14 this subtitle,

15 “(ii) income derived from such prop-
16 erty was from sources within the United
17 States (or, if no income was so derived,
18 would have been from such sources), and

19 “(iii) income derived from the prop-
20 erty acquired in the exchange would be
21 from sources outside the United States.

22 “(C) EXCEPTION.—Subparagraph (A)
23 shall not apply if the individual enters into an
24 agreement with the Secretary which specifies
25 that any income or gain derived from the prop-

erty acquired in the exchange (or any other property which has a basis determined in whole or part by reference to such property) during such 10-year period shall be treated as from sources within the United States. If the property transferred in the exchange is disposed of by the person acquiring such property, such agreement shall terminate and any gain which was not recognized by reason of such agreement shall be recognized as of the date of such disposition.

“(D) SUBSTANTIAL DIMINISHING OF RISKS OF OWNERSHIP.—For purposes of determining whether this paragraph (and subsection (a)) applies to any property transferred by the individual in an exchange, the running of the 10-year period described in subsection (a) shall be suspended for any period during which the individual’s risk of loss with respect to the property is substantially diminished by—

“(i) the holding of a put with respect to such property (or similar property),

“(ii) the holding by another person of a right to acquire the property, or

1 “(iii) a short sale or any other trans-
2 action.

3 “(E) SECRETARY MAY EXTEND PERIOD.—
4 To the extent provided in regulations prescribed
5 by the Secretary, subparagraph (B) shall be ap-
6 plied by substituting the 15-year period begin-
7 ning 5 years before the loss of United States
8 citizenship for the 10-year period referred to
9 therein.

10 “(4) INCOME OR GAIN DERIVED FROM CON-
11 TROLLED FOREIGN CORPORATION.—Any income or
12 gain derived from stock in a foreign corporation but
13 only—

14 “(A) if the individual losing United States
15 citizenship owned (within the meaning of sec-
16 tion 958(a)), or is considered as owning (by ap-
17 plying the ownership rules of section 958(b)), at
18 any time during the 2-year period ending on the
19 date of the loss of United States citizenship,
20 more than 50 percent of—

21 “(i) the total combined voting power
22 of all classes of stock entitled to vote of
23 such corporation, or

24 “(ii) the total value of the stock of
25 such corporation, and

1 “(B) to the extent such income or gain
2 does not exceed the earnings and profits earned
3 or accumulated before the loss of citizenship
4 and during periods that the ownership require-
5 ments of subparagraph (A) are met.”

6 (d) CREDIT FOR FOREIGN TAXES IMPOSED ON UNIT-
7 ED STATES SOURCE INCOME.—Subsection (b) of section
8 877 of such Code is amended by adding at the end the
9 following new sentence: “The tax imposed solely by reason
10 of this section shall be reduced (but not below zero) by
11 the amount of any income, war profits, and excess profits
12 taxes (within the meaning of section 903) paid to any for-
13 eign country or possession of the United States on any
14 income on which tax is imposed solely by reason of this
15 section.”

16 (e) COMPARABLE ESTATE AND GIFT TAX TREAT-
17 MENT.—

18 (1) ESTATE TAX.—

19 (A) IN GENERAL.—Subsection (a) of sec-
20 tion 2107 of such Code is amended to read as
21 follows:

22 “(a) TREATMENT OF EXPATRIATES.—

23 “(1) RATE OF TAX.—A tax computed in accord-
24 ance with the table contained in section 2001 is
25 hereby imposed on the transfer of the taxable estate,

1 determined as provided in section 2106, of every de-
2 cedent nonresident not a citizen of the United States
3 if, within the 10-year period ending with the date of
4 death, such decedent lost United States citizenship,
5 unless such loss did not have for 1 of its principal
6 purposes the avoidance of taxes under this subtitle
7 or subtitle A.

8 “(2) CERTAIN INDIVIDUALS TREATED AS HAV-
9 ING TAX AVOIDANCE PURPOSE.—

10 “(A) IN GENERAL.—For purposes of para-
11 graph (1), an individual shall be treated as hav-
12 ing a principal purpose to avoid such taxes if
13 such individual is so treated under section
14 877(a)(2).

15 “(B) EXCEPTION.—Subparagraph (A)
16 shall not apply to a decedent meeting the re-
17 quirements of section 877(c)(1).”

18 (B) CREDIT FOR FOREIGN DEATH
19 TAXES.—Subsection (c) of section 2107 of such
20 Code is amended by redesignating paragraph
21 (2) as paragraph (3) and by inserting after
22 paragraph (1) the following new paragraph:

23 “(2) CREDIT FOR FOREIGN DEATH TAXES.—

24 “(A) IN GENERAL.—The tax imposed by
25 subsection (a) shall be credited with the amount

1 of any estate, inheritance, legacy, or succession
2 taxes actually paid to any foreign country in re-
3 spect of any property which is included in the
4 gross estate solely by reason of subsection (b).

5 “(B) LIMITATION ON CREDIT.—The credit
6 allowed by subparagraph (A) for such taxes
7 paid to a foreign country shall not exceed the
8 lesser of—

9 “(i) the amount which bears the same
10 ratio to the amount of such taxes actually
11 paid to such foreign country in respect of
12 property included in the gross estate as the
13 value of the property included in the gross
14 estate solely by reason of subsection (b)
15 bears to the value of all property subjected
16 to such taxes by such foreign country, or

17 “(ii) such property’s proportionate
18 share of the excess of—

19 “(I) the tax imposed by sub-
20 section (a), over

21 “(II) the tax which would be im-
22 posed by section 2101 but for this
23 section.

24 “(C) PROPORTIONATE SHARE.—For pur-
25 poses of subparagraph (B), a property’s propor-

tionate share is the percentage which the value of the property which is included in the gross estate solely by reason of subsection (b) bears to the total value of the gross estate.”

(C) EXPANSION OF INCLUSION IN GROSS ESTATE OF STOCK OF FOREIGN CORPORATIONS.—Paragraph (2) of section 2107(b) of such Code is amended by striking “more than 50 percent of” and all that follows and inserting “more than 50 percent of—

“(A) the total combined voting power of all classes of stock entitled to vote of such corporation, or

“(B) the total value of the stock of such corporation,”.

(2) GIFT TAX.—

(A) IN GENERAL.—Paragraph (3) of section 2501(a) of such Code is amended to read as follows:

“(3) EXCEPTION.—

“(A) CERTAIN INDIVIDUALS.—Paragraph (2) shall not apply in the case of a donor who, within the 10-year period ending with the date of transfer, lost United States citizenship, unless such loss did not have for 1 of its principal

1 purposes the avoidance of taxes under this sub-
2 title or subtitle A.

3 “(B) CERTAIN INDIVIDUALS TREATED AS
4 HAVING TAX AVOIDANCE PURPOSE.—For pur-
5 poses of subparagraph (A), an individual shall
6 be treated as having a principal purpose to
7 avoid such taxes if such individual is so treated
8 under section 877(a)(2).

9 “(C) EXCEPTION FOR CERTAIN INDIVID-
10 UALS.—Subparagraph (B) shall not apply to a
11 decedent meeting the requirements of section
12 877(c)(1).

13 “(D) CREDIT FOR FOREIGN GIFT TAXES.—
14 The tax imposed by this section solely by reason
15 of this paragraph shall be credited with the
16 amount of any gift tax actually paid to any for-
17 eign country in respect of any gift which is tax-
18 able under this section solely by reason of this
19 paragraph.”

20 (f) EFFECTIVE DATE.—

21 (1) IN GENERAL.—The amendments made by
22 this section shall apply to individuals losing United
23 States citizenship (within the meaning of section
24 877 of the Internal Revenue Code of 1986) on or
25 after February 6, 1995.

1 (2) SPECIAL RULE.—

2 (A) IN GENERAL.—In the case of an indi-
3 vidual who performed an act of expatriation
4 specified in paragraph (1), (2), (3), or (4) of
5 section 349(a) of the Immigration and Nation-
6 ality Act (8 U.S.C. 1481(a)(1)–(4)) before Feb-
7 ruary 6, 1995, but who did not, on or before
8 such date, furnish to the United States Depart-
9 ment of State a signed statement of voluntary
10 relinquishment of United States nationality con-
11 firming the performance of such act, the
12 amendments made by this section shall apply to
13 such individual except that—

14 (i) the 10-year period described in
15 section 877(a) of such Code shall not ex-
16 pire before the end of the 10-year period
17 beginning on the date such statement is so
18 furnished, and

19 (ii) the 1-year period referred to in
20 section 877(c) of such Code, as amended
21 by this section, shall not expire before the
22 date which is 1 year after the date of the
23 enactment of this Act.

24 (B) EXCEPTION.—Subparagraph (A) shall
25 not apply if the individual establishes to the

1 satisfaction of the Secretary that such loss of
2 United States citizenship occurred before Feb-
3 ruary 6, 1994.

4 **SEC. 3. INFORMATION ON INDIVIDUALS LOSING UNITED**
5 **STATES CITIZENSHIP.**

6 (a) IN GENERAL.—Subpart A of part III of sub-
7 chapter A of chapter 61 of the Internal Revenue Code of
8 1986 is amended by inserting after section 6039E the fol-
9 lowing new section:

10 **“SEC. 6039F. INFORMATION ON INDIVIDUALS LOSING**
11 **UNITED STATES CITIZENSHIP.**

12 “(a) IN GENERAL.—Notwithstanding any other pro-
13 vision of law, any individual who loses United States citi-
14 zenship (within the meaning of section 877(a)) shall pro-
15 vide a statement which includes the information described
16 in subsection (b). Such statement shall be—

17 “(1) provided not later than the earliest date of
18 any act referred to in subsection (c), and

19 “(2) provided to the person or court referred to
20 in subsection (c) with respect to such act.

21 “(b) INFORMATION TO BE PROVIDED.—Information
22 required under subsection (a) shall include—

23 “(1) the taxpayer’s TIN,

24 “(2) the mailing address of such individual’s
25 principal foreign residence,

1 “(3) the foreign country in which such individ-
2 ual is residing,

3 “(4) the foreign country of which such individ-
4 ual is a citizen,

5 “(5) in the case of an individual having a net
6 worth of at least the dollar amount applicable under
7 section 877(a)(2)(B), information detailing the as-
8 sets and liabilities of such individual, and

9 “(6) such other information as the Secretary
10 may prescribe.

11 “(c) ACTS DESCRIBED.—For purposes of this sec-
12 tion, the acts referred to in this subsection are—

13 “(1) the individual’s renunciation of his United
14 States nationality before a diplomatic or consular of-
15 ficer of the United States pursuant to paragraph (5)
16 of section 349(a) of the Immigration and Nationality
17 Act (8 U.S.C. 1481(a)(5)),

18 “(2) the individual’s furnishing to the United
19 States Department of State a signed statement of
20 voluntary relinquishment of United States national-
21 ity confirming the performance of an act of expatria-
22 tion specified in paragraph (1), (2), (3), or (4) of
23 section 349(a) of the Immigration and Nationality
24 Act (8 U.S.C. 1481(a)(1)–(4)),

1 “(3) the issuance by the United States Depart-
2 ment of State of a certificate of loss of nationality
3 to the individual, or

4 “(4) the cancellation by a court of the United
5 States of a naturalized citizen’s certificate of natu-
6 ralization.

7 “(d) PENALTY.—Any individual failing to provide a
8 statement required under subsection (a) shall be subject
9 to a penalty for each year (of the 10-year period beginning
10 on the date of loss of United States citizenship) during
11 any portion of which such failure continues in an amount
12 equal to the greater of—

13 “(1) 5 percent of the tax required to be paid
14 under section 877 for the taxable year ending during
15 such year, or

16 “(2) \$1,000,
17 unless it is shown that such failure is due to reasonable
18 cause and not to willful neglect.

19 “(e) INFORMATION TO BE PROVIDED TO SEC-
20 RETARY.—Notwithstanding any other provision of law,
21 any person which collects (or is required to collect) the
22 statement under subsection (a) shall—

23 “(1) provide any such statement to the Sec-
24 retary, and

1 “(2) provide to the Secretary the name (and
2 any other identifying information) of any individual
3 refusing to comply with the provisions of subsection
4 (a).

5 “(f) EXEMPTION.—The Secretary may by regulations
6 exempt any class of individuals from the requirements of
7 this section if he determines that applying this section to
8 such individuals is not necessary to carry out the purposes
9 of this section.”

10 (b) CLERICAL AMENDMENT.—The table of sections
11 for such subpart A is amended by inserting after the item
12 relating to section 6039E the following new item:

 “Sec. 6039F. Information on individuals losing United States citizenship.”

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to individuals who lose United
15 States citizenship (within the meaning of section 877 of
16 the Internal Revenue Code of 1986) after the date of the
17 enactment of this Act.

18 **SEC. 4. REPORT ON TAX COMPLIANCE BY UNITED STATES**
19 **CITIZENS AND RESIDENTS LIVING ABROAD.**

20 Not later than 90 days after the date of the enact-
21 ment of this Act, the Secretary of the Treasury shall pre-
22 pare and submit to the Committee on Ways and Means
23 of the House of Representatives and the Committee on
24 Finance of the Senate a report—

1 (1) describing the compliance with subtitle A of
2 the Internal Revenue Code of 1986 by citizens and
3 lawful permanent residents of the United States
4 (within the meaning of section 7701(b)(6) of such
5 Code) residing outside the United States, and

6 (2) recommending measures to improve such
7 compliance (including improved coordination be-
8 tween executive branch agencies).

○

HR 1812 IH——2